IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ARLINGTON SPECIALTIES, INC., d/b/a PINCH PROVISIONS, Plaintiff, v. URBAN AID, INC., Defendant.	)	Case No. ____________________ JURY TRIAL DEMANDED

COMPLAINT

Plaintiff ARLINGTON SPECIALTIES, INC., d/b/a PINCH PROVISIONS ("**Pinch Provisions**" or "**Plaintiff**"), by and through its attorneys, brings this Complaint against Defendant URBAN AID, INC. ("**Urban Aid**"), and alleges as follows:

NATURE OF THE ACTION

1. This is an action for trade dress infringement and unfair competition pursuant to the Lanham Act, 15 U.S.C. § 1051 *et seq*; unfair trade practices under the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS § 510/1 *et seq.*; consumer fraud and deceptive business practices in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505/1 *et seq.*; and tortious interference pursuant to Illinois state law. Pinch Provisions seeks preliminary and permanent injunctive relief and other equitable relief; an order directing Defendant to surrender for destruction all infringing materials; and damages, costs and fees.

2. This action arises from, *inter alia*, Defendant's misappropriation of trade dress owned and used for years by Pinch Provisions in connection with Pinch Provisions' "survival kit" products, in order for Defendant to offer a knockoff product to retail customers and

consumers, and interfere with Pinch Provisions' prospective retailer relationships. In violation of federal and state law, Defendant has blatantly and intentionally infringed, and is continuing to infringe, Pinch Provisions' intellectual property in connection with the advertising, marketing and sale of directly competing goods.

PARTIES

3. Plaintiff is an Illinois corporation with a principal business address of P.O. Box 1353, Arlington Heights, Illinois 60006, registered to do business as "Pinch Provisions." Pinch Provisions is a privately-owned business that specializes in beauty, fashion, first-aid, grooming, and personal care products, namely, portable "survival kits." Pinch Provisions distributes its products to specialty and high-end retailers, and also sells online, including at a website with the following URL: http://www.pinchprovisions.com.

4. Defendant Urban Aid is a California corporation with a principal business address of 2971 Sunnynook Drive, Los Angeles, California 90039. Urban Aid has close ties to the State of Illinois and the City of Chicago. Urban Aid distributes its products to nationwide retailers with "brick-and-mortar" locations in Illinois; sells directly to gift shops and boutiques in Chicago; has Chicago-based sales representatives; attends wholesale trade shows in Illinois such as the Chicago Gift Show; sells its products online to Illinois residents, including at a website with the following URL: http://www.urbanaid.com; and interacts with Illinois residents via social networking sites.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to 15 U.S.C. § 1121 (actions arising under the Lanham Act), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1338(a) (Acts of Congress relating to trademarks), and 28 U.S.C. § 1367 (supplemental jurisdiction).

6. This Court has personal jurisdiction over Defendant because it does business in Illinois, distributes and sells its products in Illinois, contracts with Illinois businesses, interacts with Illinois consumers, and visits trade shows and other venues in Illinois for the purpose of sale and distribution of its products, such that Defendant has a reasonable expectation of being haled into court in Illinois.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a), (b) and (c) because Defendant does business in this District and Defendant is subject to personal jurisdiction in this District at the time this action is being commenced.

THE MINIMERGENCY DRESS

8. Originally doing business as "Ms. & Mrs.," Pinch Provisions is the leading purveyor of personal care kits and premium emergency essentials, combining the sensibility of a beauty or fashion brand with the practicality of a general store. For nine years, the privately-held, Chicago-based company has created chic but useful personal care kits for women and the men they love. Plaintiff offers a variety of personal care "survival kits" and "emergency essentials" for women, men, girls, mothers, students and wedding parties. In 2012, Plaintiff rebranded itself as "Pinch Provisions," and moved its website to a new domain, <www.pinchprovisions.com>. Under the new name, Plaintiff continues to offer the same broad array of survival kits and personal care products.

9. Plaintiff began selling its first survival kit product, known as the "Working Girl's Survival Kit," in 2004, followed by the "Shemergency Survival Kit" in 2007, which included twenty-five essentials for women. Then, in July 2008, Plaintiff introduced a mini version of its "Shemergency" kit called the "Minimergency Survival Kit." The Minimergency® kit has since become one the company's flagship items.

10. The Minimergency® kit contains seventeen portable "must-haves" for women, including a tiny bottle of hairspray, clear nail polish, polish remover, an emery board, lip balm, clear elastics, earring backs, a mending kit and safety pin, double-sided tape, stain remover, a deodorant towelette, pain reliever, a tampon, breath freshener, dental floss and an adhesive bandage:

PINCH
MINIMERGENCY KIT
FOR HER
17 BEAUTY & PERSONAL CARE ESSENTIALS
MINT WAXED FLOSS
SHEMERGENCY TAPE
DEODORANT
STAIN REMOVER
POLISH REMOVER

11. The kit, which generally retails for $13-16, is small enough to easily fit in the palm of the hand, a purse or a desk drawer:

12. Since 2008, Plaintiff has consistently sold its mini survival kits in its distinctive and nonfunctional packaging trade dress, featuring a transparent outer box and a soft inner

pouch with folded and tucked corners and a tabbed zipper (the "**Minimergency Dress**"). The inner pouch is available in a variety of fashion colors and finishes. The distinctive shape and construction of the inner pouch is easily recognized by consumers as indicating products from Plaintiff, regardless of whether the pouch is presented by itself or as part of the overall retail package incorporating the transparent outer box with the inner pouch visible. Although Plaintiff has changed its logos and trade name over the years, its distinctive packaging dress has always been consistent, as highlighted by press coverage of the products:

Deals & Steals
Must-have finds ... all under $25!
$10 This tiny kit comes with everything you'll need to handle last-minute emergencies.
Minimergency Survival Kit, Ms. & Mrs.; msandmrs.com.
16 FIXES IN ONE LITTLE BAG!

***InStyle Weddings* – Summer 2009**

FOR YOUR BFF
Minimergency Kit for Her, which includes Advil, a nail polish remover pad and double-stick tape ($12, msandmrs.com)

***Glamour* – December 2010**

Minimergency Kit for Her
This tiny kit can handle many of life's hiccups with small containers of hairspray, stain remover, lip balm, and more.
Price $15.00
Tags For Her, Stocking Stuffer

***MarthaStewart.com* – 2011 Holiday Gift Guide**

WHAT WE'RE OBSESSED WITH RIGHT NOW
YOUR QUICK-FIX KIT

***Brides* – June/July 2013**

13. Since the introduction of the original Minimergency® kit in 2008, Pinch Provisions has expanded its product line to include a wide variety of "MINIMERGENCY"

branded survival kits (collectively, the "**Minimergency Kits**") directed to both women and girls, and suited for special occasions and social situations, from work and school to weddings and motherhood. Each Minimergency Kit includes an assortment of beneficial products, bears the MINIMERGENCY mark and is offered in the same Minimergency Dress. True and correct copies of some of the expanded line of products are depicted below:

Good Luck Minimergency® Kit

Glitter Minimergency® Kit

Minimergency® Kit for Girls

Minimergency® Kit for Moms

PINCH
MINIMERGENCY KIT
FOR HER

Snake Charmer Minimergency® Kit

PINCH
MINIMERGENCY KIT
FOR BRIDESMAIDS

Minimergency® Kit for Bridesmaids

14. Pinch Provisions has also entered into a strategic co-branding relationship with high-end retailer J.Crew, and began offering special "J.Crew editions" of the well-known original Minimergency Kit in 2012. Like the other Minimergency Kits, the J.Crew version of the kit features the distinctive Minimergency Dress, in a shiny patent finish and colors that coordinate with J.Crew seasonal fashions. The advertising materials for the product draw attention to the Minimergency Dress:

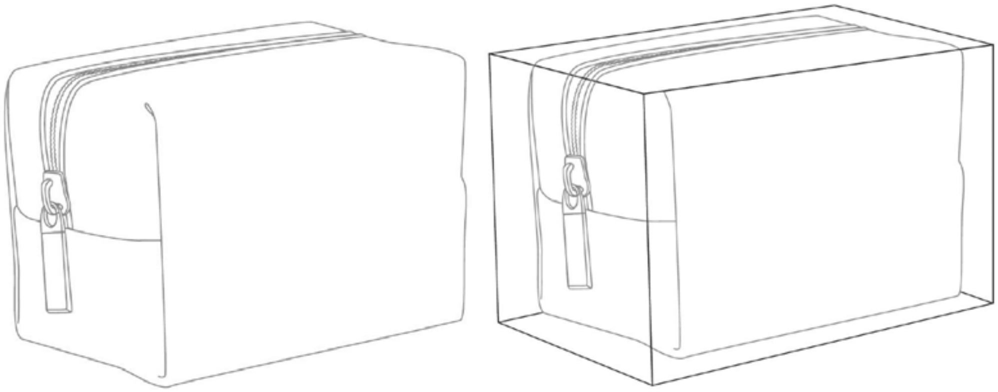
PINCH
PROVISIONS
for J.CREW
PINCH
MINIMERGENCY KIT
for J.CREW

15. Similarly, in 2010, Pinch Provisions entered into a co-branding relationship with luxury home and furniture retail chain Restoration Hardware. For the holiday gifting season, Pinch Provisions worked with Restoration Hardware to develop a special edition of the original Minimergency Kit in machine washable canvas, to tie in with the design aesthetic of the retailer's other products. The Restoration Hardware version of the kit again features the distinctive folded and tucked palm-sized pouch that is the cornerstone of the Minimergency Dress:

POLISH REMOVER
PINCH
REMOVES NAIL POLISH QUICKLY & EASILY
DEODORANT
PINCH
PORTABLE PROTECTION AGAINST ODOR & WETNESS
STAIN REMOVER
PINCH
INSTANT SOLUTION FOR MISHAPS ON-THE-GO
SHEMERGENCY™ TAPE
PINCH
DOUBLE-SIDED TAPE
LIP BALM
MINT WAXED FLOSS

16. Pinch Provisions is currently exploring other possible co-branding relationships with third parties. Many well-known fashion brands and retail chains have expressed interest in doing a "special" co-branded version of the Minimergency Kit, provided that the distinctive and immediately recognizable Minimergency Dress is used with the end product. But in order to maintain the quality reputation of its products, and to ensure that any co-branded product lives up to its high standards and does not dilute the goodwill enjoyed by its Minimergency Kits, Pinch Provisions has been extremely selective about whom it chooses to do business with. Indeed, it currently has a vendor application process which allows it to screen potential vendors before agreeing to sell to them.

17. Pinch Provisions has dedicated significant resources to develop its brand and Minimergency Kit products. In addition to obtaining several U.S. federal trademark registrations for its brand, Pinch Provisions has also filed federal applications, currently pending, covering its inherently distinctive and nonfunctional packaging trade dress:



18. The Minimergency Dress is used in interstate commerce in connection with and to identify the family of Pinch Provisions Minimergency Kits. The Minimergency Dress is inherently distinctive, but has also acquired substantial secondary meaning.

19. Survival kits bearing the Minimergency Dress have been featured in numerous magazines and on television shows throughout the country. For example, Minimergency Kits have been featured in editorial content in *The New York Times* as well as over one hundred magazines of national circulation, including without limitation *Shape, InStyle, Women's Health, People, Health, Real Simple, All You, Parents, Good Housekeeping, Marie Claire, Pregnancy & Newborn, Family Circle, Cooking Light, Glamour, Travel + Leisure, Star, Destination Weddings, Woman's Day, Cosmopolitan* and others. Most of these publications have not only referenced Pinch Provisions' product, but have prominently featured the Minimergency Dress:

The New York Times August 5, 2012

MINIMERGENCY KIT
for her
PINCH
MINIMERGENCY KIT
FOR HER

Aimee LoDuca

Above are the company's Minimergency personal care kits, before and after the change.

20. Minimergency Kits featuring the Minimergency Dress have also been featured on hundreds of blogs, social media sites and other websites devoted to women's beauty and fashion.

21. In addition to print coverage, Minimergency Kits have received coverage on national television talk shows. For example, the original MINIMERGENCY product was prominently featured on NBC's *Today Show* as part of a segment with fashion expert and journalist Jill Martin which originally aired on December 18, 2008. The following screen capture, in which the Minimergency Dress is clearly recognizable, is taken from that segment, which remains available as of the filing of this Complaint at URL http://today.msnbc.msn.com/id/26184891/vp/28296579#28296579:

TODAY
msn
SANI-Feet
SANI-Feet
mini-mergency survival kit
TODAY'S STYLE
PACKING FOR YOUR WINTER VACATION
03:26 / 04:41
full screen
subtitles
transcript
clip & share

22. Pinch Provisions has expended, and continues to expend, a significant amount of time and money to advertise, market, and promote its Minimergency Kits and its distinctive Minimergency Dress. As a result, the distinctive Minimergency Dress has been and continues to be recognized by the public as originating with Pinch Provisions. The Minimergency Dress distinguishes the emergency kits offered by Pinch Provisions from the competing goods of others, and indeed no other competitor has adopted a similar trade dress in connection with a "survival kit."

23. Pinch Provisions, through its years of continuous use, significant marketing efforts and sales of quality survival kit products throughout the U.S., has acquired and enjoys substantial goodwill and a valuable nationwide reputation through its distinctive, nonfunctional, Minimergency Dress.

24. Pinch Provisions has ensured that the materials that make up its Minimergency Kits are of the highest quality, and many of the components are made especially for Pinch

Provisions and according to its specifications. The Minimergency Kits are proudly made in the U.S.A., with U.S. and international components. Pinch Provisions has refused to decrease the quality of the items included in its kits in order to offer the kits at a lower price point.

25. Pinch Provisions is a high-growth company that manages its growth in order to protect its brand. To maintain the reputation for quality and exclusiveness enjoyed by its Minimergency Kits, Pinch Provisions has been careful and deliberate in the way it has marketed the products and expanded the line. Pinch Provisions has focused on high-end retailers such as J. Crew, Sephora, Neiman Marcus and Nordstrom to emphasize the cache of its products. To avoid commoditizing its products, Pinch Provisions has also resisted marketing its kits through "gift-with-purchase" offers. Accordingly, Minimergency Kits are viewed by the public as desirable, fashion-forward products that are available only in limited quantities from select retailers.

DEFENDANT & DEFENDANT'S INFRINGEMENT

26. Defendant Urban Aid offers a mix of gift and novelty items such as "Emergency Undies," a "one size fits most" pair of thong underwear packaged in a small tin; a "Shame On You Kit" for men which includes, among other items, a pair of boxer shorts, three condoms and a "leave behind" note; a "Naughty Nite Kit" touted as "The fun items you need for a sexy night" (blindfold, condoms, tickle feather, etc.); and a "Period Pal Kit" containing feminine hygiene products, pain reliever and underwear. Urban Aid also offers a number of "On the Go" kits which compete directly with Pinch Provisions' kits.

27. In addition to distributing its products through various retail stores and sales representatives, Defendant owns and operates a website available at URL http://www.urbanaid.com ("**UrbanAid.com**") where it provides information about its survival kits, and operates an online store where consumers can view and purchase Defendant's products.

28. Like Pinch Provisions, Defendant markets its products online via social media outlets (Facebook, Twitter, Pinterest, Youtube) and through bloggers. Defendant also attends some of the same trade shows as Pinch Provisions. And, just like Pinch Provisions' products, Urban Aid's products have been featured on the Today Show in a segment with fashion expert Jill Martin.

29. Historically, Defendant's line of novelty products have been packaged in either metal tins, or clear plastic re-sealable zipper bags, with each product prominently incorporating the URBAN AID "cross" logo and featuring consistent color schemes, fonts, iconography and overall "look and feel." (*See* **Exhibit A**). The following is a representative sample of Defendant's products and packaging:

TRAVEL
urban aid
on the go kit
includes: 1 set of ear plugs, 2 hydrating lotion towelettes, 2 moist towelettes, 2 dental flossers and 2 packets of lip ointment.
recommended for:
hydrating lotion
clean getaway kit
SPORT
urban aid
on the go kit
includes: 1 moist towelette, 1 sunblock towelette, 1 lens wipe towelette, 2 adhesive bandages, 1 packet of lip ointment and 1 packet of pain reliever.
The perfect quick fix for little things needed while active or just outdoors...you are prepared!
recommended for:
www.urbanaid.com

30. In March 2013, Pinch Provisions learned that Urban Aid was offering a new "kit" product that directly competes with Plaintiff's products. The packaging for the new copycat product (the "**Knockoff Kit**") was designed by Urban Aid's founder, Karen Barnett, and is a marked departure from the packaging used on Urban Aid's prior products. Instead, the Knockoff Kit is sold in a facsimile of the Minimergency Dress, with a nearly indistinguishable folded and tucked patent-finish pouch in the same dimensions as the Minimergency Kit (the "**Infringing Dress**"):

POLISH REMOVER
PINCH

Minimergency® Kit

NON-ASPIRIN

New Urban Aid Knockoff Kit

31. The Knockoff Kit has been sold and distributed primarily through DSW retail stores ("**DSW**"), where it was marketed as a "Handbag Survival Kit" and offered as a free gift with any purchase of $50 or more. On her design blog, Defendant's founder Ms. Barnett indicates that DSW asked Defendant to design the kit for use in a handbag promotional campaign. Ms. Barnett brags that the Knockoff Kit was "created, sourced and delivered in three months." What Ms. Barnett leaves off her blog, of course, is that the only reason she was able to move so quickly is that there actually was no "creation" or "design" involved; she merely added a few items to the contents of her existing "On the Go" survival kit products and repackaged them in an infringing copy of Pinch Provisions' packaging trade dress. The resulting Knockoff Kit was part of a major (online, e-mail, social media and in-store) advertising campaign and promotion.

32. Prior to discovering the Knockoff Kit, DSW had been in contact with Plaintiff regarding a possible business relationship. Pinch Provisions was not interested in offering its flagship Minimergency Kits as part of a "gift with purchase" promotion, but did not rule out the possibility of working with DSW to develop a new, bridge-line product specifically tailored to

DSW's needs. It is clear, however, that a partnership between Pinch Provisions and DSW is not feasible as long as DSW is selling an infringing copy of the Minimergency Kit.

33. Although it is not evident from its packaging, once opened, the products in the Knockoff Kit appear to be of a lower quality than the components which make up the Minimergency Kit. Notably, the Knockoff Kit is missing the hair spray, nail polish, nail polish remover, earring backs, tampon, and breath freshener included in the Minimergency Kit.

34. Upon learning that the Knockoff Kit was available at DSW, counsel for Pinch Provisions wrote to Ms. Barnett, putting her and Defendant on notice of Pinch Provisions' rights and advising Defendant that Pinch Provisions is already aware of actual consumer confusion occurring as a direct result of the Knockoff Kit. (*See* **Exhibit B** hereto). Rather than engage in a meaningful dialogue with Pinch Provisions, however, Urban Aid engaged counsel to respond. Defendant's lawyer denied that there is any possibility of confusion. Indeed, Defendant denied that the Knockoff Kit is even a product which competes with the Minimergency Kit.

35. When it became apparent that an amicable resolution may not be reached, Plaintiff commenced the instant action.

COUNT I
FEDERAL TRADE DRESS INFRINGEMENT
15 U.S.C. § 1125(a)

36. Pinch Provisions hereby incorporates paragraphs 1–35 of the Complaint by reference as if fully set forth herein.

37. Section 1125(a) of the Lanham Act prohibits the unauthorized use, in connection with any goods or any container for goods, of trade dress which is likely to cause confusion, mistake or deception in the marketplace concerning the source of products offered for sale.

38. Pinch Provisions has for years worked to develop the goodwill in its inherently distinctive and nonfunctional packaging trade dress as used on the Minimergency Kits. Pinch

Provisions has invested considerable resources in developing its trade dress design and in promoting its Minimergency Kits by use of this design. The consuming public identifies the Minimergency Dress with Pinch Provisions or a single unidentified source. The Minimergency Dress is a symbol of quality and goodwill that consumers can trust.

39. Without the consent of Pinch Provisions, Defendant has intentionally copied the Minimergency Dress in order to unfairly appropriate Pinch Provisions' goodwill and divert Pinch Provisions' customers.

40. Defendant has used the Infringing Dress in commerce, to promote survival kit products that are directly competitive with the Minimergency Kits. Defendant has marketed products under the Infringing Dress in the same channels of trade that Pinch Provisions employs to market its various Minimergency Kits.

41. Defendant's unauthorized use of the Infringing Dress is likely to cause confusion, mistake or deceit among consumers.

42. Defendant has engaged in trade dress infringement, in violation of Section 43(a) of the Lanham Act. Defendant's acts of infringement are knowing and willful.

43. Defendant's acts of infringement have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to the business, reputation and goodwill that Pinch Provisions enjoys in its Minimergency Dress, for which Pinch Provisions has no adequate remedy at law.

44. As a direct and proximate result of Defendant's willful violation of the Lanham Act, Pinch Provisions has suffered damages in an amount to be proven at trial.

45. This is an exceptional case and Pinch Provisions is entitled to recover reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

WHEREFORE, Plaintiff ARLINGTON SPECIALTIES, INC., d/b/a PINCH PROVISIONS, requests that this Court enter judgment in its favor and against Defendant, for injunctive relief and damages available under the Lanham Act in an amount to be proven at trial, together with interest and costs, as well as reasonable attorneys' fees.

COUNT II
FEDERAL UNFAIR COMPETITION
15 U.S.C. § 1125(a)

46. Pinch Provisions hereby incorporates paragraphs 1–45 of the Complaint by reference as if fully set forth herein.

47. This Count is to remedy acts of false designation of origin and/or false description and representation in commerce under 15 U.S.C. § 1125(a). Defendant's conduct is likely to cause confusion, mistake, or deceit as to the affiliation, connection, or association of Pinch Provisions with Defendant and as to the origin, sponsorship, or approval of Defendant's products by Pinch Provisions

48. Defendant's foregoing acts constitute unfair competition, in violation of Section 43(a) of the Lanham Act. Defendant's unlawful acts are knowing and willful.

49. Defendant's wrongful conduct has deprived, and will continue to deprive, Pinch Provisions of opportunities for controlling and expanding its goodwill.

50. Defendant's acts of unfair competition have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to the business, reputation and goodwill Pinch Provisions enjoys in its registered marks, for which Pinch Provisions has no adequate remedy at law.

51. As a direct and proximate result of Defendant's willful violation of the Lanham Act, Pinch Provisions has suffered damages in an amount to be proven at trial.

52. This is an exceptional case and Pinch Provisions is entitled to recover reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

WHEREFORE, Plaintiff ARLINGTON SPECIALTIES, INC., d/b/a PINCH PROVISIONS, requests that this Court enter judgment in its favor and against Defendant, for injunctive relief and damages available under the Lanham Act in an amount to be proven at trial, together with interest and costs, as well as reasonable attorneys' fees.

COUNT III
ILLINOIS UNFAIR TRADE PRACTICES
815 ILCS 510/1 *et seq.*

53. Pinch Provisions hereby incorporates paragraphs 1–52 of the Complaint by reference as if fully set forth herein.

54. This Count is to remedy violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510/1 *et. seq*.

55. Defendant's use of the Infringing Dress has caused, and is likely to cause in the future, a likelihood of confusion or misunderstanding as to the sponsorship, approval, affiliation or connection of Pinch Provisions to Defendant and its products.

56. By virtue of the foregoing acts, Defendant has engaged in unfair and deceptive trade practices in the course of Defendant's business, in violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510/1 *et. seq.* Defendant's unlawful acts are knowing and willful.

57. Defendant's wrongful activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to the business, reputation and goodwill enjoyed in the Minimergency Dress, for which Pinch Provisions has no adequate remedy at law.

58. Pinch Provisions is entitled to recover its reasonable attorneys' fees and costs pursuant to 815 ILCS 510/3.

WHEREFORE, Plaintiff ARLINGTON SPECIALTIES, INC., d/b/a PINCH PROVISIONS, requests that this Court enter judgment in its favor and against Defendant, for injunctive relief and damages available under the Illinois Uniform Deceptive Trade Practices Act in an amount to be proven at trial, together with interest and costs, as well as reasonable attorneys' fees.

COUNT IV
ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES
815 ILCS 505/1 *et seq.*

59. Pinch Provisions hereby incorporates paragraphs 1–58 of the Complaint by reference as if fully set forth herein.

60. This Count is to remedy violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et. seq.*

61. Defendant's unauthorized use of the Infringing Dress has caused, and is likely to cause in the future, a public injury and a detrimental effect on consumers as to the origin of Defendant's products and services. Said acts constitute unfair methods of competition and unfair or deceptive acts or practices in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et. seq.* Defendant's unlawful acts are knowing and willful.

62. Defendant's wrongful activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to the business, reputation, and goodwill Pinch Provisions enjoys in its Pinch Provisions Family of Marks, for which Pinch Provisions has no adequate remedy at law.

63. Pinch Provisions is entitled to recover its reasonable attorneys' fees and costs pursuant to 815 ILCS 505/10a.

WHEREFORE, Plaintiff ARLINGTON SPECIALTIES, INC., d/b/a PINCH PROVISIONS, requests that this Court enter judgment in its favor and against Defendant, for injunctive relief and damages available under the Illinois Consumer Fraud and Deceptive Business Practices Act in an amount to be proven at trial, together with interest and costs, as well as reasonable attorneys' fees.

COUNT V
TORTIOUS INTERFERENCE
ILLINOIS LAW

64. Pinch Provisions hereby incorporates paragraphs 1–63 of the Complaint by reference as if fully set forth herein.

65. This Count is to remedy acts of tortious interference with prospective business relations, pursuant to Illinois law.

66. Pinch Provisions had a reasonable expectation of commencing a business relationship with a third party that is not affiliated with either Pinch Provisions or Defendant. Such business relationship offered the probability of future economic benefit.

67. Upon information and belief, Defendant was aware of Pinch Provisions' prospective business relationship. Defendant has engaged in a course of conduct that was intended to, and in fact did, interfere with that relationship. Defendant created a knockoff product to appropriate Pinch Provisions' goodwill and to siphon off sales that otherwise would have gone to Pinch Provisions.

68. Defendant has interfered with Pinch Provisions' ability to sell its products directly to third party retailers on favorable terms. Defendant's behavior was not privileged, and it acted with malice, as it knew its actions would injure Pinch Provisions economically.

69. As a direct and proximate result of Defendant's conduct, Pinch Provisions has suffered, is suffering and will continue to suffer financial and other damage in an amount to be proven at trial.

70. Defendant's acts will continue and will cause irreparable injury to Pinch Provisions unless enjoined by this Court.

WHEREFORE, Plaintiff ARLINGTON SPECIALTIES, INC., d/b/a PINCH PROVISIONS, requests that this Court enter judgment in its favor and against Defendant, for injunctive relief and damages available under Illinois law in an amount to be proven at trial, together with interest and costs, as well as reasonable attorneys' fees.

PRAYER FOR RELIEF

As a direct and proximate result of Defendant's conduct, Plaintiff ARLINGTON SPECIALTIES, INC., d/b/a PINCH PROVISIONS, seeks the following relief:

A. Preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116, enjoining and restraining Defendant from the unlawful and unfair acts and conduct set forth above, and enjoining Defendant from using the Infringing Dress, or any other reproduction, copy or colorable imitation of the Minimergency Dress, for any purpose;

B. An order directing Defendant to file with this Court and serve on Pinch Provisions within thirty (30) days after service of an injunction a written report under oath setting forth in detail the manner and form in which Defendant has complied with the injunction pursuant to 15 U.S.C. § 1116;

C. An order requiring Defendant and all those in privity with it to surrender for destruction all materials incorporating or reproducing the Infringing Dress, pursuant to 15 U.S.C. § 1118 and the equitable power of this Court;

D. An order requiring an accounting of the gains and profits realized by Defendant from its wrongful acts of trade dress infringement, unfair competition, unfair and deceptive trade practices, and consumer fraud and deceptive business practices;

E. For an order requiring Defendant to pay to Pinch Provisions:

   i. statutory damages;

   ii. actual damages;

iii. all profits wrongfully derived by Defendant from its acts of infringement;

iv. increased and punitive damages as allowed by law;

v. costs and expenses, including without limitation reasonable attorneys' fees; and

vi. prejudgment interest at the maximum legal rate;

F. That this case be deemed "exceptional" within the meaning of the Lanham Act, 15 U.S.C. § 1117; and

G. Any additional relief that this Court deems just and appropriate.

JURY DEMAND

Plaintiff ARLINGTON SPECIALTIES, INC., d/b/a PINCH PROVISIONS., hereby demands and requests a trial by jury on all issues so triable.

Dated: June 5, 2013

Respectfully submitted,

ARLINGTON SPECIALTIES, INC.
d/b/a PINCH PROVISIONS

By: /s/ Jami A. Gekas
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